

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

ALI SAREINI,

Plaintiff,

Case Number 08-13961
Honorable Thomas L. Ludington

v.

MICHAEL MARTIN,

Defendant.

**ORDER DENYING AS MOOT PLAINTIFF'S APPLICATION TO PROCEED
WITHOUT PREPAYMENT OF FEES AND DENYING PLAINTIFF'S MOTION FOR
CERTIFICATE OF APPEALABILITY**

On September 23, 2008, pro se prisoner Plaintiff Ali Sareini was granted leave to proceed without prepayment of fees in this action. ECF No. 3. On January 22, 2010, the Court entered an order adopting in part and rejecting in part Magistrate Judge Virginia Morgan's report and recommendation, overruling Plaintiff's objections, granting in part and denying in part Defendant's objections, and granting in part and denying in part Defendant's motion for summary judgment. ECF No. 72. The Court's opinion and order dismissed Plaintiff's religious property claim, Plaintiff's religious holiday banquet claim under the Free Exercise Clause, and Plaintiff's Equal Protection claim, resulting in only his religious diet claim regarding cross-contamination of the vegetarian meal options remaining. On April 14, 2011, Plaintiff filed a motion for reconsideration, which the Court denied on September 1, 2011. ECF Nos. 74, 75. Now before the Court is Plaintiff's application to proceed without prepayment of fees on appeal. ECF No. 80. Plaintiff was permitted to proceed without prepayment of fees in this Court; thus, further authorization is not required. Fed. R. App. P. 24(a)(3). Plaintiff may proceed without prepayment of fees on appeal.

Plaintiff has also filed a motion for a certificate of appealability. A certificate of appealability

is required only in certain types of cases, typically habeas corpus proceedings brought pursuant to 28 U.S.C. §§ 2254 and 2255. *See* 28 U.S.C. § 2253(c). A certificate of appealability is not required, however, to appeal a district court order denying relief for claims brought pursuant to 42 U.S.C. § 1983. *Johnson v. CCA-Northeast Oh. Corr. Ctr.*, 21 F. App'x 330, 332 (6th Cir. 2001).

Accordingly, it is **ORDERED** that Plaintiff's application to proceed without prepayment of fees (ECF No. 80) is **DENIED AS MOOT**.

It is further **ORDERED** that Plaintiff's motion for a certificate of appealability (ECF No. 77) is **DENIED**.

s/Thomas L. Ludington
THOMAS L. LUDINGTON
United States District Judge

Dated: December 14, 2011

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means and upon Ali Sareini, #203519, at Newberry Correctional Facility, 3001 Newberry Avenue, Newberry, MI 49868 by first class U.S. mail on December 14, 2011.

s/Tracy A. Jacobs
TRACY A. JACOBS